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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/781,271
Filing Date: February 17, 2004
Appellant(s): GOERKE ET AL.

Jeffrey A. Berkowitz
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 5/15/2008 appealing from the Office action mailed 11/26/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

Claims 1-3, 5-24 and 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inanoria (US Patent Application Publication No. 2004/0046789, hereafter "Inanoria") in view of Pena et al. (US Patent Application Publication No.

2003/0225829, hereafter "Pena"), Tim Pattison et al. ("Information Visualisation Using Composable Layouts and Visual Sets", Australian Symposium on Information Visualisation, Vol. 9, Sydney, Australia, Dec. 2001, pp. 1-10, hereafter "Pattison") and Michael J. Mahemoff et al. ("Handling Multiple Domain Objects with Model-View-Controller", TOOLS 32, Nov. 22-25, 1999, pp. 28-39, hereafter "Mahemoff").

NEW GROUND(S) OF REJECTION

Claims 1-3 and 5-24 are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

20040046789	Inanoria	3-2004
20030225829	Pena et al	12-2003

Pattison, Tim, et al., "Information Visualisation using Composable Layouts and Visual Sets", Australian Symposium on Information Visualisation, Vol. 9, Sydney, Australia (Dec. 2001), pp. 1-10.

Mahemoff, Michael J., et al., "Handling Multiple Domain Objects with Model-View-Controller", TOOLS 32 (Nov. 22-25, 1999), pp. 28-39.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

NEW GROUND(S) OF REJECTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-3 and 5-24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Independent claims 1 and 16 are each directed to a "computer program product ... tangibly embodied in a computer-readable medium ...". It is noted that the Specification at page 14 lines 17-21 explicitly defines a computer program product as a "a computer program tangibly embodied in an information carrier, e.g., ... in a propagated signal, for execution by, or to control the operation of ... a computer". Emphasis added. Thus a computer readable-medium has been reasonably interpreted as encompassing a signal, or other non-statutory subject matter. A signal, however, is merely a form of energy, which is not a statutory subject matter category.

Claims 2-3 and 5-15 are dependent upon independent claim 1, and do not correct the deficiencies of that claim. These claims are likewise rejected.

Claims 17-24 are dependent upon independent claim 16, and do not correct the deficiencies of that claim. These claims are likewise rejected.

These claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-24 and 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inanoria (US Patent Application Publication No. 2004/0046789,

provisionally filed Aug. 23, 2002 and published Mar. 11, 2004, hereafter referred to as "Inanoria") in view of Pena et al. (US Patent Application Publication No. 2003/0225829, provisionally filed May 22, 2002 and published Dec. 4, 2003, hereafter referred to as "Pena"), Tim Pattison et al. ("Information Visualisation Using Composable Layouts and Visual Sets", Australian Symposium on Information Visualisation, Vol. 9, Sydney, Australia, Dec. 2001, pp. 1-10, hereafter referred to as "Pattison") and Michael J. Mahemoff et al. ("Handling Multiple Domain Objects with Model-View-Controller", TOOLS 32, Nov. 22-25, 1999, pp. 28-39, hereafter referred to as "Mahemoff").

Regarding independent claim 1: Inanoria discloses: ***A computer program product, tangibly embodied in computer readable medium, the computer program product comprising instructions operable to cause data processing apparatus to assist in development of user interfaces: receiving user input specifying a view composition, the view composition comprising a set of views, each view in the set of views comprising a layout of the one or more user interface elements selected from the set of user interface elements,*** (See paragraphs [0124] – [0126] in the context of [0145] in Inanoria, discussing a Layout Manager using templates for providing GUI layouts, and Figure 8, showing an exemplary layout) ***and storing the view composition in a repository.*** (See [0099] in Inanoria, discussing the calling of the appropriate template, having been implied that the template was being called from storage.)

However, Inanoria does not explicitly disclose navigation links. Pena, though, discloses: ***the view composition further comprising a layout of the views and at least one navigation link, each navigation link specifying a potential transition from a first view in the set of views to a second view in the set of views, wherein each navigation link comprises an association between an exit point in the first view and an entry point in the second view;*** (See paragraph [0095] in the context of [0099] in Pena, discussing the use of a link for action transitions among page views. It is noted that such links inherently associate views.) ***such that a rendering program uses the view composition to display the user interface.*** (See Pena Fig. 8 #804, which discusses the rendering of the models)

It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the teachings of Pena for the benefit of Inanoria, because to do so allowed a system designer to implement a platform- and language-independent content delivery system and method, as taught by Pena in the Abstract. These references were all applicable to the same field of endeavor, i.e., the management of graphical user interfaces.

However, Inanoria does not explicitly disclose the remaining limitations as claimed. Pattison, though, discloses: ***enabling a user to lay out one or more views for a user interface*** (See Pattison page 5 Fig. 2 showing a GUI for specifying a view and consists of a layout composition tree on the left and a layout rule customizer on the

right, as discussed in the paragraph starting above, and finishing below, Fig. 2. Also note the discussion in the 1st paragraph of the section entitled "1. Introduction" on page 1, of prior art graph visualization and navigation techniques as assisting users in exploring large datasets having inherent relations among data elements, such as web pages and databases.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the teachings of Pattison for the benefit of Inanoria in view of Pena, because to do so allowed a user to simultaneously exploit the strengths of a number of information visualization techniques, as taught by Pattison in the 3rd paragraph of section "1. Introduction" on page 1. These references were all applicable to the same field of endeavor, i.e., the management of graphical user interfaces.

Additionally, Inanoria does not explicitly disclose the remaining limitations as claimed. Mahemoff, though, discloses: ***including allowing the user to select one or more interface elements from a set of user interface elements for each of the one or more views;*** (See Mahemoff page 32 section "3.3 Reusability of components" discussing that reusable component technology, which allows selection of user interface components such as buttons and popup menus, for example, was available in most toolkits of the time.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the teachings of Mahemoff for the benefit of Inanoria in view of Pena and Pattison, because to do so provided a designer with a simple but effective way to

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develop user interface prototypes, as taught by Mahemoff at the top of page 29. These references were all applicable to the same field of endeavor, i.e., the management of graphical user interfaces.

Regarding claim 2: Inanoria teaches multiple user interface elements, view user elements and container elements. (See Figure 3, showing multiple buttons and multiple windows, and paragraph [0075], discussing grouping and nesting of containers.)

Regarding claim 3: Inanoria teaches manipulating property settings. (See paragraph [0065].)

Regarding claim 5: Inanoria does not explicitly teach this limitation as claimed. However, Pena teaches using events to trigger navigation links and event handlers. (See paragraph [0062], discussing IDML Actions processing.)

Regarding claim 6: Inanoria teaches using pre-defined layouts. (See paragraph [0124], discussing master templates and a plurality of templates for each supported layout.)

Regarding claim 7: Inanoria teaches nesting of views. (See paragraphs [0075] – [0076], discussing grouping and nesting of GUI components in a container.)

Regarding claims 8-9: Inanoria teaches view association. (See Figure 8, showing the result of an association of views and view containers in an enclosing view.) Inanoria further teaches the use of pre-defined layouts. (See paragraph [0124].)

Regarding claims 10-11: Inanoria teaches view association. (See Figure 8, showing the result of an association of views and view containers in an enclosing view.) Inanoria further teaches the use of pre-defined layouts. (See paragraph [0124]. The specific view designated as a default was also an obvious variant to one skilled in the art at the time of the invention.)

Regarding claims 12-13: Inanoria teaches the use of reusable components. (See paragraph [0011], discussing the use of reusable and extendible content objects. Reuse of software components, including coded classes and objects, was well-known and whether to employ such a strategy was also an obvious variant to one skilled in the art at the time of the invention.)

Regarding claim 14: Inanoria teaches the use of user GUI controls. (See Figure 10A – 10D, showing an editor GUI, and Figure 1, noting the client browser transmission of the HTTP request [element #1].)

Regarding claim 15: Inanoria teaches the use and storage of XML view compositions. (See paragraphs [0099] and [0102], discussing the use of XSL templates, which are written in XML, and paragraph [0103] discussing the “importing” of an XSL file, it having been implicit that such a file must have first been stored in order to have been later imported.)

Regarding independent claim 16: Inanoria discloses: ***A computer program product, tangibly embodied in an information carrier, the computer program product comprising instructions operable to cause data processing apparatus to assist in execution of an application: generating the user interface comprising the layout, the layout and the set of views being specified in a view composition, each view in the set of views comprising a layout of one or more user interface elements selected from a set of user interface elements;*** (See paragraphs [0124] – [0126] in the context of [0145] in Inanoria, discussing a Layout Manager using templates for providing GUI layouts, and Figure 8, showing an exemplary layout).

However, Inanoria does not explicitly disclose navigation links. Pena, though, discloses: ***modifying the user interface based on at least one navigation link specified in the view composition, wherein each navigation link associates a first view in the set of views with a second view in the set of views, wherein each navigation link comprises an association between an exit point in the first view and an entry point in the second view.*** (See paragraph [0095] in the context of [0099] in Pena, discussing the use of a link for action transitions among page views. It is noted that such links inherently associate views.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the teachings of Pena for the benefit of Inanoria, because to do so allowed a system designer to implement a platform- and language-independent content delivery system and method, as taught by Pena in the Abstract. These references were all applicable to the same field of endeavor, i.e., the management of graphical user interfaces.

However, Inanoria does not explicitly disclose the remaining limitations as claimed. Pattison, though, discloses: ***enabling a user to lay out one or more views from a set of views for a user interface*** (See Pattison page 5 Fig. 2 showing a GUI for specifying a view and consists of a layout composition tree on the left and a layout rule customizer on the right, as discussed in the paragraph starting above, and finishing below, Fig. 2. Also note the discussion in the 1st paragraph of the section entitled "1. Introduction" on page 1, of prior art graph visualization and navigation techniques as

assisting users in exploring large datasets having inherent relations among data elements, such as web pages and databases. See also the 2nd paragraph of section "2.6 Visual Sets" on page 4, which discuss visual sets and an exemplary stacking order mechanism to achieve an overlay effect.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the teachings of Pattison for the benefit of Inanoria in view of Pena, because to do so allowed a user to simultaneously exploit the strengths of a number of information visualization techniques, as taught by Pattison in the 3rd paragraph of section "1. Introduction" on page 1. These references were all applicable to the same field of endeavor, i.e., the management of graphical user interfaces.

Additionally, Inanoria does not explicitly disclose the remaining limitations as claimed. Mahemoff, though, discloses: ***including allowing the user to select one or more interface elements from a set of user interface elements for each of the one or more views;*** (See Mahemoff page 32 section "3.3 Reusability of components" discussing that reusable component technology, which allows selection of user interface components such as buttons and popup menus, for example, was available in most toolkits of the time.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the teachings of Mahemoff for the benefit of Inanoria in view of Pena and Pattison, because to do so provided a designer with a simple but effective way to develop user interface prototypes, as taught by Mahemoff at the top of page 29. These

references were all applicable to the same field of endeavor, i.e., the management of graphical user interfaces.

Regarding claims 17-18: Inanoria teaches the invoking of event handlers. (See paragraph [0176], discussing event processing by the Event Manager and event propagation among containers.) However, Inanoria does not explicitly teach displaying a second view. Pena, though, teaches action transitions between page views. (See paragraph [0095].)

Regarding claim 19: Inanoria teaches nesting of views to effect a layout. (See paragraphs [0075] – [0076], discussing grouping of GUI components in a container.) Inanoria further teaches the displaying of the view, which was specified by the layout. (See paragraph [0077], discussing the processing performed by a Layout Manager. The specific layout implemented was an obvious variant to one skilled in the art at the time of the invention.)

Regarding claims 20-21: Inanoria teaches nesting of views to effect a layout. (See paragraphs [0075] – [0076], discussing grouping of GUI components in a container.) Inanoria further teaches the displaying of the view, which was specified by

the layout. (See paragraph [0077], discussing the processing performed by a Layout Manager.)

Regarding claim 22: Inanoria teaches modifying a view composition. (See paragraphs [0075] and [0077], discussing the use of object oriented programming of containers and affecting the visual attributes of hierarchically structured containers.)

Regarding claim 23: Inanoria does not explicitly teach this limitation as claimed. However, Pena teaches using a navigation link to move among page views. (See paragraph [0095] in the context of [0099], discussing the use of a link for action transitions among page views.)

Regarding claim 24: Inanoria teaches the use of reusable components. (See paragraph [0011], discussing the use of reusable and extendible content objects. Reuse of software components, including coded classes and objects, was well-known and whether to employ such a strategy, and the number of reusable components used, was an obvious variant to one skilled in the art at the time of the invention.)

Independent claims 28-29 are respectively directed to a method and an apparatus for implementing computer product claim 1. As such, these claims are

substantially similar to claim 1, and therefore likewise rejected. Pena further discloses the use of a processor in Fig. 2 #220.

Independent claims 30-31 are respectively directed to a method and an apparatus for implementing computer product claim 16. As such, these claims are substantially similar to claim 16, and therefore likewise rejected. Pena further discloses the use of a processor in Fig. 2 #220.

(10) Response to Argument

A. Rejection of claims 1-3, 5-24 and 28-31 under 35 U.S.C. §103(a).

On pages 16-17 of the Revised Appeal Brief (hereafter "the Brief"), Appellant recites several MPEP passages and asserts that the cited references do not teach each and every element of the claims, and that the references teach away from their combination.

The Office respectfully disagrees.

1. Appellant argues on pages 17-20 of the Revised Appeal Brief (hereafter "the Brief") that the Inanoria reference does not disclose the claim limitations and teaches away from the claim limitations.

On pages 17-19 of the Brief, Appellant asserts that Inanoria does not teach "enabling a user to lay out one or more views for a user interface including allowing the user to select one or more user interface elements from a set of user interface elements for each of the one or more views", because Inanoria teaches away from this claim limitation.

The Office respectfully disagrees for several reasons. First, Appellant's presented argument is a non-sequitor. Appellant argues that Inanoria does not use "development technologies" and lists disadvantages of "the non-declarative approach", and therefore this teaches away from the claimed limitations. It is unclear what "development technologies" and "the non-declarative approach" are, and how "development technologies" and "the non-declarative approach" even relate to Appellant's claimed subject matter. Additionally, it is noted that the terminology "development technologies" and "non-declarative approach" does not appear in the claims or even the Specification, for that matter. Thus whatever interpretation one attributes to Inanoria's statements, one cannot reasonably draw a conclusion that Inanoria is teaching away from Appellant's claimed invention, because the claim language is not directed to "development technologies" and/or and "the non-declarative approach".

Second, it is further noted that what Inanoria teaches is directed to an improvement over the prior art that is centered around, inter alia, the choice of programming language used in the implementation of a GUI builder application. Inanoria teaches that the use of a markup language based (i.e., lightweight) programming language, rather than a "heavyweight" language such as Java Swing/AWT may be desirable from a performance standpoint. See the Inanoria paragraph [0009] discussing a development environment for lightweight languages/technologies, in the context of paragraphs [0012], comparing the rendering of GUI components in lightweight and heavyweight languages, and [0015], discussing a performance advantage achieved for the use of lightweight languages. Additionally, the discussion in paragraph [0013] reveals that Inanoria's implementation is "consistent" with conventional, heavyweight implementations/standards such as Java Swing/AWT (Java-based) and Microsoft Foundation Classes (MFC) Windows GUI components (C++ based). Thus, Inanoria has sought to improve upon conventional (i.e., existing) GUI component implementations by, inter alia, the choice of programming language. There is no requirement that all references describe implementations in the same programming language, or using the same hardware platform. Such choices are design variables that are well within the grasp and understanding of those of ordinary skill in the art.

Third, it appears that Appellant is also asserting that Inanoria was improperly used because the reference criticizes prior art implementations, like Appellant's subject matter. Therefore, Appellant's argument can also be construed as: "We admit that

Inanoria reveals the instant subject matter to be conventional/prior art, but it was improper to use Inanoria because it criticizes this conventional/prior art, and therefore teaches away from the instant (i.e., our) subject matter". As noted above, since Inanoria is directed, at least in part, to the choice of programming language for the implementation of (at least a portion of) a GUI builder system, then Inanoria can fairly be characterized as suggesting that a variety of programming languages are used to implement conventional/prior art GUI building systems, such as Appellant's, and that the choice of programming language can impact system factors such as performance. See Inanoria paragraph [0009] discussing the use of lightweight and heavyweight languages/technologies, in the context of paragraph [0015] discussing resulting improvements in "user experience".

Fourth, and most importantly, it is further noted that the claim limitation being argued by Appellant was not cited by the Final Office Action (mailed 11/26/2007, and hereafter referred to as "the Final") as being explicitly disclosed by the Inanoria reference.

On page 20 of the Brief, Appellant further asserts that the claims dependent upon claim 1 (claims 2-3 and 5-15), substantially similar to claim 1 (claims 16 and 28-31), and dependent upon claim 16 (claims 17-24) are allowable for the reasons set forth above.

The Office respectfully disagrees, and counter-asserts the rationale set forth above.

2a. Appellant argues on pages 20-22 of the Brief that the Inanoria reference does not disclose “enabling a user to lay out one or more views for a user interface including allowing the user to select one or more user interface elements from a set of user interface elements for each of the one or more views”.

On pages 21-22 of the Brief, Appellant re-asserts the argument presented above that the claim rejection was improper, arguing that the primary reference Inanoria does not teach “enabling a user to lay out one or more views for a user interface including allowing the user to select one or more user interface elements from a set of user interface elements for each of the one or more views”, because Inanoria teaches away from this claim limitation.

The Office respectfully disagrees, and counter-asserts the reasons set forth above.

On page 21 of the Brief, Appellant asserts that Inanoria cannot teach “each view in the set of views comprising a layout of the one or more user interface elements selected from the set of user interface elements”, because the Final indicated that the Inanoria reference did not explicitly disclose “enabling a user to lay out one or more views for a user interface”, and that this is irreconcilable with the limitation cited as being taught by Inanoria (“... each view in the set of views comprising a layout of the one or more user interface elements selected from the set of user interface elements”).

The Office respectfully disagrees. First, the Office notes that no supporting rationale has been provided for Appellant's "irreconcilable" assertion.

Second, it is also noted that the references as a whole teach the recited claim language.

Third, it is further noted that Appellant's argument shows only a redaction of the limitation cited as being taught by Inanoria, and has thus hidden that the argued "view" is merely an "input specifying a view composition". Since Inanoria teaches storage and manipulation of view compositions, Inanoria is reasonably interpreted as teaching the limitation as claimed. Additionally, Inanoria was discussed in the Final as not explicitly disclosing "enabling a user to lay out one or more views for a user interface". Inanoria was primarily concerned with the "behind the scenes" activity of the system in the creation and storage of GUI components. Hence, the Pattison reference was incorporated into the claim rejection, to show what was known in the art at the time of Appellant's subject matter regarding the display/editing of one or more views by a user.

On pages 21-22 of the Brief, Appellant further asserts that the claims dependent upon claim 1 (claims 2-3 and 5-15), substantially similar to claim 1 (claims 16 and 28-31), and dependent upon claim 16 (claims 17-24) are allowable for the reasons set forth above.

The Office respectfully disagrees, and counter-asserts the rationale set forth above.

2b. Appellant argues on pages 22-24 of the Brief that the combination of the Inanoria and Pena references does not disclose "enabling a user to lay out one or more views for a user interface including allowing the user to select one or more user interface elements from a set of user interface elements for each of the one or more views".

On pages 20-21 of the Brief, Appellant re-asserts the argument presented above that the claim rejection was improper, arguing that the primary reference Inanoria does not teach "enabling a user to lay out one or more views for a user interface including allowing the user to select one or more user interface elements from a set of user interface elements for each of the one or more views", because Inanoria teaches away from this claim limitation.

The Office respectfully disagrees, and counter-asserts the reasons set forth above.

On page 23 of the Brief, Appellant asserts that even if Pena teaches the use of navigation links, that the claim rejection was still improper because the primary reference, Inanoria, does not teach "enabling a user to lay out one or more views for a user interface including allowing the user to select one or more user interface elements from a set of user interface elements for each of the one or more views", because Inanoria teaches away from this claim limitation.

The Office respectfully disagrees, and counter-asserts the reasons set forth above.

On pages 23-24 of the Brief, Appellant further asserts that the claims dependent upon claim 1 (claims 2-3 and 5-15), substantially similar to claim 1 (claims 16 and 28-31), and dependent upon claim 16 (claims 17-24) are allowable for the reasons set forth above.

The Office respectfully disagrees, and counter-asserts the rationale set forth above.

2c. Appellant argues on pages 24-26 of the Brief that the combination of the Inanoria, Pena and Pattison references does not disclose "enabling a user to lay out one or more views for a user interface including allowing the user to select one or more user interface elements from a set of user interface elements for each of the one or more views".

On pages 24-25 of the Brief, Appellant re-asserts the argument presented above that the claim rejection was improper, arguing that the primary reference Inanoria does not teach "enabling a user to lay out one or more views for a user interface including allowing the user to select one or more user interface elements from a set of user interface elements for each of the one or more views", because Inanoria teaches away from this claim limitation.

The Office respectfully disagrees, and counter-asserts the reasons set forth above.

On pages 25-26 of the Brief, Appellant asserts that Pattison does not teach “enabling a user to lay out one or more views for a user interface including allowing the user to select one or more user interface elements from a set of user interface elements for each of the one or more views” (emphasis added), because Pattison allows a user to select a layout for the visualization of data.

The Office respectfully disagrees. First, it is reiterated that the references as a whole teach the claimed subject matter.

Second, it is noted that only the recitation “enabling a user to lay out one or more views for a user interface” was cited in the Final as being taught by Pattison. Even if Appellant’s characterization is correct, “selecting a layout” reads on the recited claim language, as the cited Figure 2 of Pattison teaches the use of a layout composition specification editor, which enabled one to layout (and edit) views. Thus Pattison teaches the recited claim language.

Third, as noted in the Final, at least the Figure 2 on page 5 of Pattison teaches enabling a user to layout one, or more, views for a user interface. Figure 2 shows a layout composition editor, enabling a user to graphically construct a view to be used to build a user interface.

On page 26 of the Brief, Appellant also asserts that Pattison does not teach “enabling a user to lay out one or more views for a user interface including allowing the user to select one or more user interface elements from a set of user interface elements for each of the one or more views” (emphasis added), because “Figure 2 of Pattison is the user interface for the presentation of data to a user via one of the selected layouts”.

The Office respectfully disagrees. First, it is noted that Appellant’s argument is unclear because there is no explanation as to, even if true, why Appellant’s assertion that “Figure 2 of Pattison is the user interface for ... selected layouts” is considered by the Appellant as being problematic.

Second, it is noted that the references as a whole teach the claimed subject matter.

Third, the recited claim language cited in the Final as being taught by Pattison requires “enabling a user to layout one or more views for a user interface”. Emphasis added. The cited Figure 2 of Pattison teaches a layout composition specification editor, which enables a user to graphically construct a view to be used to build a user interface.

On page 26 of the Brief, Appellant further asserts that the claims dependent upon claim 1 (claims 2-3 and 5-15), substantially similar to claim 1 (claims 16 and 28-31), and dependent upon claim 16 (claims 17-24) are allowable for the reasons set forth above.

The Office respectfully disagrees, and counter-asserts the rationale set forth above.

2d. Appellant argues on pages 27-29 of the Brief that the combination of the Inanoria, Pena, Pattison and Mahemoff references does not disclose "enabling a user to lay out one or more views for a user interface including allowing the user to select one or more user interface elements from a set of user interface elements for each of the one or more views".

On page 27 of the Brief, Appellant re-asserts the argument presented above that the claim rejection was improper, arguing that the primary reference Inanoria does not teach "enabling a user to lay out one or more views for a user interface including allowing the user to select one or more user interface elements from a set of user interface elements for each of the one or more views", because Inanoria teaches away from this claim limitation.

The Office respectfully disagrees, and counter-asserts the reasons set forth above.

On page 28 of the Brief, Appellant asserts that Mahemoff does not teach enabling a user to lay out one or more views for a user interface including allowing the user to select one or more user interface elements from a set of user interface elements for each of the one or more views" (emphasis added), because Mahemoff's statements are vague and merely indicates that "widgets, buttons and pop-up menus are available in most toolkits".

The Office respectfully disagrees. First, it is noted that the references as a whole teach the claimed subject matter.

Second, the recited claim language cited in the Final as being taught by Mahemoff was directed to “allowing the user to select one or more user interface elements from a set of user interface elements for each of the one or more views”. The cited passage in Mahemoff discusses reusability of GUI components, such as buttons, pop-up menus, etc. The concept of reusability, contrary to Appellant’s assertions, is not vague and inapplicable. As was well known in the art at the time of Appellant’s subject matter, reusability is a desirable programming practice. See the first paragraph under “3.3 Reusability of components” on page 32 of Mahemoff, describing reusability as a beneficial software engineering concept. Mahemoff’s discussion of designing GUI components to be reusable strongly suggests that such components are to be selected and reused in at least one “view”.

Third, it is additionally noted that Mahemoff provides evidence that reusable (or re-selectable) GUI components existed in contemporary GUI building toolkits (i.e., “modern” toolkits in existence at the time of the Mahemoff reference). See the first paragraph under “3.3 Reusability of components” on page 32 of Mahemoff, describing the availability of toolkits providing reusable GUI components or widgets. Thus the use of such reusable components was well known in the art at the time of Appellant’s subject matter.

On pages 28-29 of the Brief, Appellant further asserts that the claims dependent upon claim 1 (claims 2-3 and 5-15), substantially similar to claim 1 (claims 16 and 28-31), and dependent upon claim 16 (claims 17-24) are allowable for the reasons set forth above.

The Office respectfully disagrees, and counter-asserts the rationale set forth above.

B. Appellant argues that finality of the Office Action was premature.

On pages 29-30 of the Brief, Appellant asserts that the finality of an Office Action was premature.

The Office respectfully disagrees, and further notes that this is not appealable subject matter. See MPEP §1002.02(c) Petitions Decided by the Technology Center Directors (noting paragraph 3(a) discussing "prematureness of final rejection").

On pages 29-30 of the Brief, Appellant re-asserts the argument presented above that the claim rejection was improper, arguing that the primary reference Inanoria does not teach "enabling a user to lay out one or more views for a user interface including allowing the user to select one or more user interface elements from a set of user interface elements for each of the one or more views", because Inanoria teaches away from this claim limitation.

The Office respectfully disagrees, and counter-asserts the reasons set forth above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section (9) above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

Respectfully submitted,

/Robert Stevens/
Patent Examiner
July 11, 2008

A Technology Center Director or designee must personally approve the new ground(s) of rejection set forth in section (9) above by signing below:

Conferees:

/John Breene/

Supervisory Patent Examiner, Art Unit 2162

Tim T. Vo

/Tim T. Vo/

Supervisory Patent Examiner, Art Unit 2168

/Jack Harvey/

Director, Technology Center 2100